

Appl. No. 09/965,596
Amdt. Dated 10/11/2005
Reply to Office Action of 7/14/2005

REMARKS/ARGUMENTS

This Amendment is in response to the Office Action mailed July 14, 2005. In the Office Action, claims 20, 22, and 26 were rejected under 35 U.S.C. §102, and claims 1-4, 6-10, 18, 19, 21, and 23-25 under 35 U.S.C. §103. Claims 11 and 12 have been cancelled without prejudice. Claims 6-8 and 10 have been amended. Claims 27-31 have been added. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Rejection Under 35 U.S.C. § 102

Claims 20, 22 and 26 have been rejected under 35 U.S.C. §102(b) as being anticipated by Brunelle (U.S. Patent No. 5,608,807). Applicants respectfully disagree because a *prima facie* case of anticipation has not been established. As the Examiner is aware, in order to anticipate a claim under §102(b), Brunelle must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (*Emphasis added*). Applicants respectfully submit that Brunelle does not teach each and every limitation set forth in the claims.

For instance, independent claim 20 includes the limitation that the display comprises "a plurality of single indicator lights, *each single indicator light* conveying a monitored status of one corresponding track of the plurality of recording tracks, wherein the monitored status indicates *both* a transport movement and a mode of the one corresponding track." *Emphasis added*. In contrast, the Office Action explicitly identifies the transport movement as being provided by an output meter (4) and the mode of the track as being provided by a separate identification display panel (18), which is a LED physically disassociated from the output meter (4). *See Paragraph 3 of the Office Action; See also col. 4, lines 49-51 and col. 5, lines 19-21 of Brunelle*. As a result, Applicants respectfully submit that Brunelle requires the use of two indicator lights (4, 18) to convey a monitored status in lieu of a single indicator light as claimed, and thus, does not anticipate the claimed invention.

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With respect to claims 22 and 26, such claims are dependent on independent claim 20, believed by Applicants to be in condition for allowance. Hence, no further discussion as to the grounds for traverse is warranted. Applicants reserve the right to present such arguments in an appeal is warranted. It is important to note that the level meter of claim 26 is interpreted by the Examiner to correspond to the output meter (4) of Brunelle. However, Applicants respectfully point out that the output meter (4) also considered by the Examiner to be the "single indicator light," and thus, the output meter (4) cannot correspond to each indicator light as claimed.

In light of the foregoing, withdrawal of the §102(b) rejection is respectfully requested.

Rejections Under 35 U.S.C. § 103

A. REJECTION OF CLAIMS 1-4 AND 6-10

Claims 1-4 and 6-10 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Brunelle. Applicants respectfully traverse the rejection because a *prima facie* case of obviousness has not been established.

As the Examiner is aware, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. *See MPEP §2143; see also In Re Fine, 873 F. 2d 1071, 5 U.S.P.Q.2D 1596 (Fed. Cir. 1988)*. Herein, the combined teachings of the cited references fail to describe or suggest all of the claim limitations.

With respect to independent claim 1, Applicants respectfully submit that it would not have been obvious based on the teachings of Brunelle to provide a display where each indicator light is configured to output "a first color and a second color wherein the first color is associated with the output of an input of the corresponding track and the second color is associated with the output of recorded material." In fact, Brunelle teaches away from and provides no suggestion for this claim implementation as noted above.

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With respect to claim 6, Applicants respectfully submit that the claim has been revised and respectfully request reconsideration of the allowability of this claim. In addition, claims 7-8 and 10 have been amended and claims 26-31, which are dependent on independent claim 6, have been added. Reconsideration of these claims is also respectfully requested.

In view of the foregoing arguments, Applicants respectfully request withdrawal of the §103(a) rejection of claims 1-4 and 6-10.

B. REJECTION OF CLAIMS 18, 19, 21, 24 AND 25

Claims 18, 19, 21, 24 and 25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Brunelle in view of Turnbull (U.S. Patent No. 5,803,579). Applicants respectfully disagree with the rejection because neither Brunelle nor Turnbull, alone or in combination, suggest an operation of indicating the mode of the track by illuminating a second light emitting diode disposed in the housing in close proximity to the first light emitting diode such that when both the first light emitting diode and the second light emitting diode are activated, a third color is generated. In contrast, the output meters (4) as described by Brunelle, which appear to be considered the "light emitting diodes" or "LEDs" as claimed, are directed to identifying the level of audio sound for a channel module (2), and such level is based on which LEDs are illuminated.

Herein, there is no suggestion for the combination of the teachings of Brunelle and Turnbull. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art suggests the desirability of the combination. *See In re Mills, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990)*. Moreover, even if combined, the combined system would not be directed to the mode of the track as claimed, but rather at its audible sound level.

With respect to claim 19 and claims 21, 24 and 25, these claim sets are dependent on independent claim 18 and 20, respectively. Applicants believe that claims 18 and 20 are in condition for allowance as noted above. Therefore, no further discussion as to the grounds for

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traverse is warranted. Applicants reserve the right to present such arguments if an Appeal is warranted.

In view of the foregoing arguments, Applicants respectfully request withdrawal of the §103(a) rejection of claims 18, 19, 21, 24 and 25.

C. REJECTION OF CLAIM 23

Claim 23 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Brunelle in view of Zampini (U.S. Patent No. 5,444,789). Applicants respectfully traverse the rejection. However, it is noted that claim 23 is dependent on claim 20, which Applicants believe is in condition for allowance. Therefore, no further discussion as to the grounds for traverse is warranted.

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Conclusion

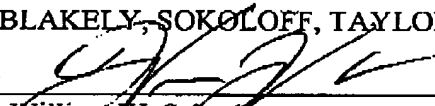
In view of the remarks made above, it is respectfully submitted that pending claims 1-4, 6-12 and 18-31 define the subject invention over the prior art of record. Thus, Applicants respectfully submit that all the pending claims are in condition for allowance, and such action is earnestly solicited at the earliest possible date. The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application. To the extent necessary, a petition for an extension of time under 37 C.F.R. §1.17 is hereby made. Please charge any shortage in fees in connection with the filing of this paper, including extension of time fees, to Deposit Account 02-2666 and please credit any excess fees to such account.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 10/11/2005

By


William W. Schaaf

Reg. No. 39,018

Tel.: (714) 557-3800 (Pacific Coast)

12400 Wilshire Boulevard, Seventh Floor
Los Angeles, California 90025

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